

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

Francisco Almeida Leon, Wanda Cruz Quiles,
their Conjugal Partnership and Juan Almeida
León

Plaintiffs

vs.

WM Capital Management, Inc.

Defendants

Case No. 16-1394

Re: State Court Case K AC2016-0027(806)

Breach of Contract, Damages, Redemption by
Co-owner, etc.

Trial by Jury Demanded

JOINT INFORMATIVE MOTION ON FILING BEFORE STATE COURT

COME NOW, voluntary plaintiffs Francisco Almeida Leon, Wanda Cruz Quiles, their Conjugal Partnership, and Juan Almeida León (the Almeida Plaintiffs), and involuntary plaintiff Tenerife Real Estate Holdings, LLC (Tenerife), by and through their respective undersigned counsels, and respectfully state and pray as follows:

1. On August 16, 2021 the Puerto State Court issued a Resolution and Order in case no. KCD2009-0708 in relation to WMC's continued attempt to intervene in said case and execute this Honorable Court's Final Judgment and two State Court final judgments, by the State Court in terms contrary to the terms of each such State Court judgment and contrary to the commands of the Puerto Rico Mortgage Law, among others. In this Resolution the court declared the facts upon which it based its decision, as well as decreed the substantive and binding effect of said decree on the merits.

2. The court held that the Final Judgment entered in this case may not be executed as WM Capital Management, Inc. (WMC) intends, as it contradicts and pretends to annul and modify the State Court final judgment in said case dated November 7, 2011. The holding in State Court includes the lack of jurisdiction of Federal Courts to annul or modify valid prior State Court final

judgments and the need to give those prior State Court Final judgments full faith and credit, among other legal grounds. A copy of the Resolution and Order issued by the State Court in case number KCD2009-0708 is already on file before this Honorable Court; see ECF #498-1.

3. This Honorable Court then issued an *injunction* on September 15, 2021 at the request of WMC (ECF #509 and #510). The *injunction* prohibits Plaintiffs and the State Court enforcing the Resolution and Order of August 16, 2021.

4. On September 23, 2021 this Honorable Court further extended the TRO indefinitely, without determining good cause nor obtaining the consent of the parties. Two appeals ensued from the appearing parties.

5. The impasse resulting from the controversies and from the inconsistencies on the resolutions between the state court and this Honorable Court has prevented the foreclosure sale from taking place in state court case number KCD2011-0142 and in case number KCD2009-0708, pending resolution of the appeals before the U.S. Court of Appeals.

6. Meanwhile, during the several years that state court and this case have been ongoing, a liability for property taxes over the Kennedy Property has accrued in the amount of \$936,572.60, amount which continues to accrue interest and penalties. Copy of certification from the Centro de Recaudación de Ingresos Municipales (CRIM) is attached as exhibit A.

7. It is common knowledge that the Commonwealth of Puerto Rico is currently pursuing an insolvency proceeding before the U.S. District Court, under the PROMESA Act, in case number 17-BK-3283. Said case is currently in the process of plan confirmation, which will require, and is required, that the government utilize all its financial resources available, including the collections from property taxes (one of the government's sources of revenues), for payment to its creditors.

8. To expedite, facilitate and encourage the collection of the substantial amounts due to the government in property taxes, the state legislature has approved an amnesty measure for the payment of outstanding property taxes at a substantial discount if paid on or before January 31, 2022.

9. The Puerto Rico Mortgage Law, in its article 55 (30 L.P.R.A. §6082) creates and establishes a first rank statutory lien in favor of the Commonwealth of Puerto Rico for the full amount of the property taxes owed over a realty, including principal, interest and penalties for the last five years and the current one. Said mortgage lien is superior in rank to any recorded mortgage or lien.

10. Pursuant to the most recent CRIM certification, the sum due for property taxes for the Kennedy Property (the realty which is to generate the funds for payment in this case), including principal, interest and penalties, amounts to \$936,572.60 which is the amount of the statutory lien in favor of the Commonwealth. This statutory lien is superior in rank to the mortgages to be foreclosed in this case, in case number KCD2009-0708 and in case number KCD2011-0142. Should this statutory lien be foreclosed, as will likely happen during the PROMESA proceedings, the effectiveness of the judgments in the present case and in the state court cases will be severely hampered and the property destined to generate the fund for payment can be lost.

11. For the foregoing reason, the appearing parties filed on December 20, 2021, before the State Court, in case number KCD2011-0142, a motion requesting the payment of the property taxes due from the funds deposited before the state court in said case, with the remaining of the funds to remain deposited with the state court until the appeals in the present case have run their course.

12. The remedy requested from the State Court is unrelated to the August 16, 2021 Resolution and Order as well as this Honorable Court's TRO, and pursues only to protect the

property which is to generate the funds for payment in this case and in the State Court cases, as well as to protect the interest of all parties, including WMC and the current owner of the Kennedy property who is a party in State Court case number KCD2011-0142.

WHEREFORE, plaintiffs Francisco Almeida León, Wanda Cruz Quiles, their Conjugal Partnership, and Juan Almeida Leon and involuntary plaintiff Tenerife Real Estate Holdings, LLC respectfully request from this Honorable Court to take notice of the information herein contained and to grant any remedy it may deem appropriate.

I HEREBY CERTIFY: that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all CM/ECF participants of record in this case, including counsel for WM Capital Management, Inc.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on this 22nd day of December, 2021.

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